



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

July 20, 2023

**BY ECF**

The Honorable Alvin K. Hellerstein  
United States District Judge  
Southern District of New York  
United States District Courthouse  
500 Pearl Street, Room 1050  
New York, New York 10007

The conference scheduled for July 27, 2023 is adjourned to  
September 27, 2023 at 12:00 p.m.

SO ORDERED.

/s/ Alvin Hellerstein

July 24, 2023

Re: *United States v. David Smothermon*, 19 Cr. 382 (AKH)

Dear Judge Hellerstein:

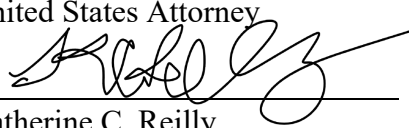
The Government writes, with the consent of defense counsel, to respectfully request an adjournment of the conference scheduled in the above-captioned matter for July 27, 2023.

On August 12, 2022, the Court granted the defendant's request for an adjournment of the trial scheduled in this matter pending the Supreme Court's rulings in *Percoco v. United States* and *Ciminelli v. United States*, which both relate to the "right to control" theory of wire fraud. In May of this year, the Supreme Court issued its decisions in those cases. Since that time, the parties have been engaged in discussions about how the case will proceed and, recently, as to a possible pre-trial resolution of the case. Those discussions are ongoing. Accordingly, the parties respectfully request that the Court adjourn the conference scheduled for July 27, 2023 to a date on or after September 15, 2023, to permit the parties to conclude their discussions about a pre-trial resolution of this matter. The Government also respectfully moves—with the consent of the defendant—for the exclusion of time under the Speedy Trial Act ("STA"), 18 U.S.C. § 3161(h)(7)(A), from July 27, 2023, until the new conference date set by the Court.

Respectfully submitted,

DAMIAN WILLIAMS  
United States Attorney

By:

  
Katherine C. Reilly  
Assistant United States Attorney  
(212) 637-6521

cc: Terry Yates, Esq. and George Murphy, Esq. (by ECF)